

**Manatee Protection Plan Review Committee (MPPRC)
Minutes of September 9, 2009 Meeting**

Committee Attendees: Brett Bibeau; Richard Bunnell; T. Spencer Crowley III; Judith Futerfas; David Gardner; Lynda Green; Mark Lewis; Kate Mansfield, Ph.D; Robert Moser; Manny Prieguez (Chair); Dick Townsend (Vice Chair); Julia Zaias, Ph.D. (via speakerphone)

County Staff Attendees: Lee Hefty (DERM); Susan Markley, Ph.D. (DERM); Craig Grossenbacher (DERM); Molly Messer (DERM); Nancy Revilla (DERM); Lisa Spadafina (DERM); Kevin Asher (Miami-Dade Park & Recreation)

Other Attendees: A sign in sheet was provided for public sign in.

1. Welcome, Introductions, and Review of Agenda: A quorum was established. The meeting was called to order by Chair Manny Prieguez at 1:02 P.M. The meeting was recorded on video.

Ms. Green expressed concerns about committee balance and compliance with Sunshine Law requirements. . Another committee member asked for clarification of the accommodation of one member of the committee by allowing participation in the meeting via speakerphone and asked if other members had been afforded this opportunity. Chair Prieguez clarified that due to medical reasons which prevented the member's attendance the accommodation was made which is acceptable. He clarified that that type of accommodation is different than someone who just couldn't come for other reasons.

Mr. Bibeau stated that he wanted to take up his previously distributed items, one of which had already been voted on. At the request of the Chair to follow the agenda, Mr. Bibeau agreed to withhold his discussion until the appropriate time.

2. Review of minutes from past meetings: The Chair clarified that the meeting minutes being reviewed in this meeting were from the July 29, 2009 meeting. Ms. Green made a new motion relating to the July 29, 2009 minutes as follows:

FIRST MOTION

Motion Made by: Lynda Green

Motion Seconded by: Dick Townsend

"I make the motion that they be accepted."

Mr. Bibeau requested that the vote on the minutes be deferred until the end of the meeting because he had not had time to read them. Ms. Green objected to his request to delay the approval of the minutes. After a brief discussion, the Chair called the question.

The motion **failed** by a vote of 7 to 5 as follows:

Brett Bibeau	No	Richard Bunnell	No
T. Spencer Crowley, III	No	Judith Futerfas	No
David Gardner	No	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	Absent

Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	No	Manny Prieguez, Chair	No
Richard Townsend, Vice Chair	Yes	Julia Zaias, PhD	Yes

Chair Prieguez stated that, since the motion failed, the review of the minutes could be reconsidered later in the meeting.

3. Review and Discussion of Committee Suggestions: Mr. Bibeau was recognized by the Chair to continue with the suggestions that he wanted to discuss earlier. He passed out to the committee a document with his interpretation of data (Attachment A) and two revised proposed amendments to the MPP. Mr. Bibeau explained the difference in this document to the previously distributed versions. Mr. Bibeau then made a motion to amend the language in the current Manatee Protection Plan as follows:

SECOND MOTION

Motion Made by: Brett Bibeau

Motion Seconded by: Richard Bunnell

1) Amend Page 97:

"Limited Special Use

Limited special use dockage includes courtesy docks, water dependent public transportation dockage and commercial/charter fishing boat docks with a maximum density (including existing boat slips) of 1 vessel per 500 feet of shoreline, or one slip per parcel, whichever is more restrictive. This applies to the west Biscayne Bay shoreline from the Port of Miami Bridge south to SW 15th Road including Bayside and the Miami River ~~from the mouth upstream to the NW 5 ST Bridge.~~"

Mr. Bibeau explained his rationale for his motion including his independent review of data (Attachment A) that he believes supports his motion.

A discussion ensued among the committee members about Mr. Bibeau's motion and his interpretation of data when compared to the data provided to the committee by DERM. Several committee members expressed concern about the accuracy of Mr. Bibeau's interpretation of data.

At the request of a committee member, Dr. Markley provided a summary of what the MPP currently allows in terms of courtesy docks and what data should be used in the evaluation process. She also summarized the data provided to the committee and DERM's interpretation of the data related to the Miami River and transient dockage. Dr. Markley pointed out that within the area where the MPP currently allows expansion of transient dockage; the opportunities to construct new transient docks have not been taken.

Other topics discussed by the committee included potential locations for transient dockage, increased density of boats and resultant impacts to manatees, areas of the Miami River that serve as sensitive habitat, and speed zones on the Miami.

The Chair called the question.

The motion **failed** by a vote of 7 to 4 as follows:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	No
David Gardner	Yes	Lynda Green	No
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	No	Kate Mansfield, PhD	No
Robert Moser	No	Manny Prieguez, Chair	No
Richard Townsend, Vice Chair	No	Julia Zaias, PhD	Absent*

* Dr. Zaias lost her connection via teleconference and could therefore, not vote on the item.

Chair Prieguez and Mr. Lewis handed out copies of their proposals to the committee members and DERM staff. Chair Prieguez and Mr. Lewis briefly commented on the similarities and differences between their two proposals. Chair Prieguez opened the discussion about his two proposals. The committee discussed the concept and language of his proposals at length.

Due to the length of the discussion, Mr. Moser suggested that perhaps a motion should be made to continue the meeting beyond the time listed on the agenda. Chair Prieguez agreed and a motion was made.

THIRD MOTION

Motion Made by: Mark Lewis

Seconded by: Dick Townsend

"Motion... [to extend the meeting] ...until 5:00 PM."

The motion **passed** unanimously by the committee members present, including Dr. Zaias who had rejoined the meeting during a brief break. Mr. Lamadrid and Mr. Karl were absent.

The Chair then brought up proposed language that he had passed out to the committee. During the discussion, several changes were made to the original language proposed by Chair Prieguez as is reflected in the motion below. Chair Prieguez passed the gavel to Vice Chair Townsend and made the following motion:

FOURTH MOTION

Motion Made by: Manny Prieguez

Seconded by: David Gardner

"I move that the Manatee Protection Plan be amended to read for, in reference to transfer of slips to be eligible for transfer, donor site wet or dry slips must have all required environmental and land use authorizations or permits in effect at the time of the application, excluding building permits. Only slips in compliance with all applicable regulations may be transferred. In lieu of obtaining actual permits from authorized governmental agencies, letters of intent from said agencies could be accepted for the transfer of slips. That's my motion."

Following extended discussion of the concept, Chair Prieguez requested that the question be called, and turned over the gavel to Vice-Chair Townsend. Mr. Bunnell requested that the motion be restated. Chair Prieguez restated the motion as follows:

"I move that the MPP be amended to read: 'To be eligible for transfer, donor site wet or dry slips must have all required environmental and land use authorizations or permits in effect at the time of the application, excluding building permits. Only slips in compliance with all applicable regulations may be transferred. In lieu of obtaining actual permits from authorized governmental agencies, letters of intent from said agencies could be accepted for the transfer of slips.'"

Vice Chair Townsend called the question. The motion **passed** with a vote of 8 to 4 as follows:

Brett Bibeau	Yes	Richard Bunnell	No
T. Spencer Crowley, III	Yes	Judith Futerfas	No
David Gardner	Yes	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	No	Julia Zaia, PhD	No

After a brief break, the Chair deferred discussion of the definition of existing facility until the next meeting so that the committee could continue with the final items on the agenda.

The Chair requested that someone who was on the prevailing side of the earlier vote by which the minutes were not approved make a motion for reconsideration. A motion was made as follows:

FIFTH MOTION

Motion Made by: Dick Bunnell

Seconded by: T. Spencer Crowley, III

"I make the motion [to reconsider]."

The motion **passed** with a vote of 11 to 1:

Brett Bibeau	Yes	Richard Bunnell	Yes
T. Spencer Crowley, III	Yes	Judith Futerfas	Yes
David Gardner	Yes	Lynda Green	Yes
Bob Karl	Absent	Alberto Lamadrid	Absent
Mark Lewis	Yes	Kate Mansfield, PhD	Yes
Robert Moser	Yes	Manny Prieguez, Chair	Yes
Richard Townsend, Vice Chair	Yes	Julia Zaia, PhD	No

After the approval of the above motion, the original motion made by Lynda Green and seconded by Dick Townsend at the beginning of the meeting to approve the July 29, 2009 meeting minutes was voted on again. The Chair called the question.

The motion **passed unanimously** with only Mr. Karl & Mr. Lamadrid being absent.

4. Public Comment

Bibi Villazon, Trident Environmental Consultants, Inc. - Ms. Villazon commented on the language in the current MPP that states that 2 slips per single family dock are allowed, and that the U.S. Army Corps of Engineers is currently withholding approvals of projects based on this requirement in the plan. She suggested that the issue of slip restrictions on single family docks be discussed by the committee. She submitted a folder of information to the committee providing some background information related to this issue.

Dr. Markley explained that the intent of the MPP was not to further restrict single family docks. She explained that the number of "2 slips per dock" was based on a requirement of state rules related to use of submerged lands and was a reference to that rule. Dr. Markley stated that the Department agreed (in a previous committee meeting) that the language related to single family docks needs clarification and reiterated that the intent is not to impose additional restrictions that do not already exist. At the request of a committee member, Dr. Markley agreed to provide a proposal for recommended language. The Chair requested that DERM bring that language and other recommended changes or clarifications to the next meeting.

Edward O. Keith, stated that he was concerned about public oversight of the meetings and that the minutes of several meetings have not yet been posted on the website. As a result, he opined that the general public is not aware of what is happening at the meetings. He requested that staff get the meeting minutes completed and on the website for the public to review as soon as possible because there has been a lot of activity with changes.

Kevin Asher, Miami-Dade Park & Recreation Department, stated that the Department is concerned about the boating facility siting criteria and how it affects the public access marinas that they run. He requested that the committee take the data that has been provided and use it to update the Essential Manatee Habitat maps and the marina facility siting criteria as well. Mr. Asher stated that the Park & Recreation Department will be preparing a package of recommendations to DERM suggesting locations where marine improvements can be made that are compliant with the data provided to the committee. Mr. Asher opined that the MPP should be amended and that the marine facility siting plan should be amended based on the data provided. He stated that the package would be oriented toward public access facilities and will be provided very soon.

Edward Swakon, Marine Council of Greater Miami, stated that he provided a resolution at the beginning of the meeting that was adopted by his organization. The resolution includes recommendation of the updating of the marine facility siting guidelines. He suggested that future meeting agendas clarify what will be discussed so that the members of the public can come prepared with ideas. Mr. Swakon opined that the committee needs to have copies of the resolutions they adopted for reference in their meetings. Mr. Swakon also opined that based on the adoption of the resolution related to slip transfers that was approved today's meeting further restricts the potential of slip transfers occurring.

The meeting adjourned at 5:09 P.M.

Attachment A – Data & Analysis interpretation submitted by Brett Bibeau

Submitted by
Brett Bibean JST
9/9/09

Data & Analysis:

- Attached Board of County Commissioners Resolution R-536-05, adopted May 3, 2005, "The County Manager is hereby directed to prepare a policy which shall create procedures whereby owners of property along the Miami River can request an official determination by DERM of the number of existing legal boat slips authorized for that property and to maintain a record of those determinations, and that allows for the relocation of such slips to other properties on the Miami River". The adopted resolution had a limitation / restriction that slips may only be relocated from one location to another on the Miami River, and boat slips may not be transferred into the Miami River from locations outside of the Miami River.
- In 2007 the Miami River's recently maintenance dredged 15 foot deep federal Navigable Channel and its tributaries had slightly over 1,200 permitted boat slips, and in 2008 the permitted boat slips quantity reduced to 1,100. – DERM 5/8/09 Powerpoint
- "Black Point Marina and Dry Storage: Vessel launch and arrival" - DERM
Wet Slips, Saturday, 11/15/08, 8 AM to 2 PM, of 171 leased slips only 10 vessels or 6% launched
Boat Barn, Saturday, 11/15/08, 8 AM to 2 PM, of 230 leased slips only 20 vessels or 9% launched
Boat Barn, Sunday, 7/20/08, 8 AM to 2 PM, of 240 leased slips only 29 vessels or 12% launched
Wet Slips, Sunday, 7/20/08, 8 AM to 2 PM, of 178 leased slips only 27 vessels or 15% launched
Average 10.5% of leased boat slips resulted in vessel launches on these two surveyed weekend (busiest) days.
DERM's contracted "Recreational Boating Activity in Miami-Dade County" by MOTE Marine Laboratory, dated April 28, 2009, indicates the average launches is estimated at 10.5% of the total boats in a facility on weekends, and 1.44% on weekdays, creating a daily average regardless of which day of the week they operate at an estimated 5.97% of vessels in a facility actually being launched.
- DERM's contracted "Recreational Boating Activity in Miami-Dade County" by MOTE Marine Laboratory, dated April 28, 2009, indicates on page 53 (enclosed) that of the 6 observation points, the Miami River has the 2nd least operating boats, and 4 of six other sites had more operating boats than the Miami River, with only one site having less operating boats than the Miami River.
- The Miami River is the slowest possible "idle / no wake speed" restricted zone – Manatee Protection Plan page 53
- The Miami River has frequent and consistent Marine Patrol coverage via Miami-Dade Marine Patrol 1-2 officers, 7 days per week, 40 hours per week in addition to the City of Miami Marine Patrol, 2 officers, 11 hours per day, minimum 5 days per week. – videotaped Miami-Dade / City of Miami Marine Patrol testimony to the Manatee Protection Plan Review Committee

Submitted by Brett
Bibeau @ 8/9/09 mtg.

- "The animals (manatee) will generally dive or otherwise move out of the path of oncoming vessels, and have been observed by DERM biologists at two locations, moving out of the way of vessels entering manatee occupied waters." – Manatee Protection Plan page 47. Jay Gorzelany, Mote Marine Laboratory, contracted by DERM to conduct the "Recreational Boating Activity In Miami-Dade County" testified to the Committee on June 3, 2009, that boats traveling "slow speed still safe for manatee".
- In 2007, July was the month with the greatest quantity of boat launches. From 1996 – 2007, the month of July had amongst the fewest watercraft caused Manatee Deaths with 1 manatee death by watercraft in the month of July from 1996-2007. In 2007, June was the month with the second greatest quantity of boat launches. From 1996 – 2007, the month of June had amongst the fewest watercraft caused Manatee Deaths with 1 Manatee death by watercraft in the month of June from 1996-2007. – DERM's "7/16/08 MPP Review Committee Meeting" PowerPoint presentation.
- DERM's "Miami-Dade County Manatee Mortalities, Human Related: Watercraft" and DERM's 7/16/08 Powerpoint indicates over the past 13 years of collected data (1995-2008) there were 114 manatee deaths by all causes, of which 3 carcasses were recovered on the Miami River and defined as "Human Related: Watercraft", which is 2% of the total manatee deaths.
- "A team of scientists counted an all-time-high number of manatees during the annual manatee synoptic survey conducted the week of Jan 19, 2009. The Florida Fish and Wildlife Conservation Commission's (FWC) Fish and Wildlife Research Institute (FWRI) reported a preliminary count of 3,807 manatees statewide. A team of 21 observers from 9 organizations counted 2,153 manatees on Florida's East Coast and 1,654 on the West Coast of the State. This year's count exceeded the previous high count from 2001 by more than 500 animals. In both years, survey conditions were favorable for aerial observations." - myfwc.com
- "Florida Department of Environmental Protection's 12/21/95 letter to Miami-Dade County, "With this approval, the Department's interim standards for boating facilities, such as the 1:100 policy, are replaced with the standards set forth by the MPP."